IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 23518 of 2003

Between:

1 P. Srinivasa Rao, S/o. Venkata Satyanarayana Murthy
Mutyalapalem PACS, Mamidikuduru Mandal E.G. Dist.
2 K. Suryanarayana Raju, S/o. Kama Raju
Mutyalapalem PACS, Mamidikuduru Mandal, E.G. Dist.
3 Y. Srinivasa Rao, S/o. Sri Rama Murthy
Edarada PACS, Edarada, Mamidikuduru Mandal, E.G. Dist.
4 Ch. Ramesh Babu, S/o. Dharma Rao
Edarada PACS, Edarada.
5 A.V.G.S. Prakasa Rao,S/o. Subba Rao
Kadali PACS, Razole Mandal, E.G. Dist.
6 Y. Ganeswara Rao, S/o. Narayana Murthy
Magatapalli PACS, Magatapalli, Mamidikuduru Mandal, E.G. Dist..

..... PETITIONERS

AND

1 The Commissioner for Cooperation Govt. of A.P. Hyderabad.
2 The Dist. Cooperative Officer, E.G. Dist. at Kakinada.
3 The Divisional Cooperative Officer Amalapuram, E.G. Dist.
4 The Mutyalapalem PACS, Mamidikuduru Mandal E.G. Dist. rep by its Chairman/PIC
5 The Edarada PACS, Edarada, E.G. Dist. rep by its Chairman/PIC
6 The Kadali PACS Razole Mandal, E.G. Dist., rep. By its Chairman/PIC
7 The Magatapalli PACS, Magatapalli E.G. Dist. Dist. rep by its Chairman/PIC

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned action of the respondents 2 and 3 in issuing

directions to the respondents 4 to 7 societies to terminate the petitioners by applying Act 2/94 as highly illegal, arbitrary and violative of Art.14 of the constitution of India and further action of the respondents societies 5 and 7 in terminating the service of the petitioners 3, 4 and the action of the respondents 4 and 6 societies in initiating proceedings to terminate the petitioners 1, 2 and 5 as highly illegal and arbitrary and pass such other order or orders in the interest of justice.

Counsel for the Petitioners:MR.G.V.SHIVAJI

Counsel for the Respondents 1 to 3 : GP FOR COOPERATION

Counsel for Respondents 4 to 7: None appeared.

The Court made the following :

ORDER:

The petitioners are the employees of different Primary Agricultural Cooperative Societies of respondents 4 to 7. Their services were terminated through different impugned orders on the ground that the expenditure incurred by the Societies is not in accordance with Section 116 (c) of the A.P. Cooperative Societies Act, 1964 (for short 'the Act') and that the appointments of the petitioners were made contrary to Act 2 of A.P. (Regulation of Appointments to Public Services and Rationalization of Staff Pattern and Pay Structure) Act, 1994 (for short 'Act 2 of 1994).

Learned counsel for the respondents submits that the services of the petitioners were terminated after following due procedure prescribed in law.

It is not in dispute that the employees of the Society are entitled to continue if they are appointed in the sanctioned post in respect of the staffing pattern fixed by the society as approved by the Registrar of Cooperative Societies, subject to the condition that the expenditure of pay and allowances shall not exceed 2% of the working capital or 30% of the gross profit in terms of actuals in a year, whichever is less. It is also open for each Society to revise the staffing pattern and pay & allowances for fulfilling the said conditions of Section 116 (c) of the Act. Merely because some of these employees have been appointed contrary to Act 2 of 1994, it cannot constitute a ground to remove their services as long as their appointment is in compliance of Section 116 (c) (1) of the Act. If it is a simple removal by the Society in compliance of Section 116 (c) (1) of the Act, this court would not have entertained the writ petition filed by its employee but the action of the societies is pursuant to the directions of the higher authorities removing their employees, whose appointment was made contrary to Act 2 of 1994.

The writ petition is disposed of directing the respondents societies to review the impugned orders and take appropriate decision in conformity with Section 116 (c)(1) of the Act, giving the particulars of the staffing pattern fixed by them as approved by the Commissioner and Registrar of Cooperative Societies and pass appropriate orders in accordance with law. No costs.

14.9.2004

cvm

To

1 The Commissioner for Cooperation Govt. of A.P. Hyderabad.
2 The Dist. Cooperative Officer, E.G. Dist. at Kakinada.
3 The Divisional Cooperative Officer Amalapuram, E.G. Dist.
4 The Mutyalapalem PACS, Mamidikuduru Mandal E.G. Dist. rep by its Chairman/PIC
5 The Edarada PACS, Edarada, E.G. Dist. rep by its Chairman/PIC
6 The Kadali PACS Razole Mandal, E.G. Dist., rep. By its Chairman/PIC.
7 The Magatapalli PACS, Magatapalli E.G. Dist. Dist. rep by its Chairman/PIC

8 2 CCs to G.P. for Cooperation, High Court of A.P., Hyd. (OUT).

9 2 CD copies.